Kentucky Public Defender Cases before the U. S. Supreme Court

Kentucky public defenders influence development of constitutional law

22 decisions and grants of writs from 1978 – 2014

Bordenkircher v. Hayes, 434 U.S. 357 (January 18, 1978) (5-4 decision)

The defendant was charged with uttering an $88.30 forged instrument and offered a 5 year plea deal. If the deal was not accepted, the prosecutor said he would seek an indictment as an habitual offender with mandatory life imprisonment. The Court decided the Due Process Clause of the Fourteenth Amendment is not violated when a state prosecutor carries out a threat made during plea negotiations to re-indict the accused on more serious charges if he does not plead guilty to the offense with which he was originally charged.

Taylor v. Kentucky, 436 U.S. 478 (May 30, 1978) (7-2 decision)

"We hold that on the facts of this case the trial court's refusal to give petitioner's requested instruction on the presumption of innocence resulted in a violation of his right to a fair trial as guaranteed by the Due Process Clause of the Fourteenth Amendment."

Kentucky v. Whorton, 441 U.S. 786 (May 21, 1979) (6-3 decision)

"The failure to give a requested instruction on the presumption of innocence does not in and of itself violate the Constitution. Under *Taylor*, such a failure must be evaluated in light of the totality of the circumstances-including all the instructions to the jury, the arguments of counsel, whether the weight of the evidence was overwhelming, and other relevant factors-to determine whether the defendant received a constitutionally fair trial."

Pilon v. Bordenkircher, 444 U.S. 1 (October 9, 1979) (unanimous per curiam decision)

The constitution prohibits a criminal conviction except upon proof of guilt beyond reasonable doubt. This standard can only be put into effect if a federal habeas corpus court in assessing sufficiency of evidence to support state court conviction, "inquires whether, after viewing evidence in light most favorable to prosecution, any rational trier of fact could have found essential elements of crime beyond reasonable doubt."

Rawlings v. Kentucky, 448 U.S. 98 (June 25, 1980) (7-2 decision)

The defendant lacked standing to challenge the search of a woman's purse where he had concealed drugs and he had no legitimate expectation of privacy in the purse given his brief acquaintanceship with the woman, the access of other people to the purse, and the defendant's admission that he had no subjective expectation of privacy.

Watkins v. Sowders, 449 U.S. 341 (January 13, 1981) (7-2 decision)

"A judicial determination outside the presence of the jury of the admissibility of identification evidence may often be advisable. In some circumstances, not presented here, such a determination may be constitutionally necessary. But it does not follow that the Constitution requires a *per se* rule compelling such a procedure in every case."

Carter v. Kentucky, 450 U.S. 288 (March 9, 1981) (8-1 decision)

A "state trial judge has the constitutional obligation, upon proper request, to minimize the danger that the jury will give evidentiary weight to a defendant's failure to testify."

Fletcher v. Weir, 455 U.S. 603 (March 22, 1982) (8-1 per curiam)

"In the absence of the sort of affirmative assurances embodied in the *Miranda* warnings, we do not believe that it violates due process of law for a State to permit cross-examination as to postarrest silence when a defendant chooses to take the stand. A State is entitled, in such situations, to leave to the judge and jury under its own rules of evidence the resolution of the extent to which postarrest silence may be deemed to impeach a criminal defendant's own testimony."

James v. Kentucky, 466 US 341 (April 18, 1984) (8-1 decision)

"The Constitution obliges the trial judge to tell the jury, in an effective manner, not to draw the inference [from the defendant's silence] if the defendant so requests; but it does not afford the defendant the right to dictate, inconsistent with state practice, how the jury is to be told." Accordingly, an oral admonition directing the jury to draw no adverse inference from the defendant's silence is sufficient, and a written instruction is not required.

Evitts v. Lucey, 469 U.S. 387 (January 21, 1985) (5-2 decision)

Criminal defendant is entitled under Fourteenth Amendment due process to effective assistance of counsel on first appeal as of right.

Batson v. Kentucky, 476 U.S. 79 (April 30, 1986) (7-2 decision)

The "State's privilege to strike individual jurors through peremptory challenges, is subject to the commands of the Equal Protection Clause… the Equal Protection Clause forbids the prosecutor to challenge potential jurors solely on account of their race or on the assumption that black jurors as a group will be unable impartially to consider the State's case against a black defendant." A state criminal defendant has a right to a hearing to establish a prima facie case of purposeful racial discrimination that violates Fourteenth Amendment Equal Protection Clause based on the prosecution's use of peremptory challenges to strike members of the defendant's race from the jury venire. Once the defendant has made the prima facie showing, the prosecution must show a neutral explanation for those challenges. *Batson* "is an explicit and substantial break with prior precedent" because it "overruled [a] portion of *Swain.*"

Crane v. Kentucky, 476 U.S. 683 (June 9, 1986) (unanimous decision)

"Whether rooted directly in the Due Process Clause of the Fourteenth Amendment, *Chambers v. Mississippi, …,* or in the Compulsory Process or Confrontation clauses of the Sixth Amendment,…, the Constitution guarantees criminal defendants 'a meaningful opportunity to present a complete defense.'" A court cannot exclude testimony at trial concerning circumstances of defendant's confession on ground that such testimony was only relevant to the issue of voluntariness which was resolved against defendant prior to trial after a suppression hearing.

Griffith v. Kentucky, 479 U.S. 314 (January 13, 1987) (5-4 opinion)

A "new rule for the conduct of criminal prosecutions is to be applied retroactively to all cases, state or federal, pending on direct review or not yet final, with no exception for cases in which the new rule constitutes a 'clear break' with the past. Therefore, the ruling in *Batson* applies retroactively to all cases, state or federal, pending on direct review or not yet final.

Kentucky v. Stincer, 482 U.S. 730 (June 19, 1987) (6-3 decision)

Neither the Sixth Amendment Confrontation Clause nor the Fourteenth Amendment Due Process Clause were violated by excluding defendant from competency hearing of two child witnesses in sexual abuse case.

Buchanan v. Kentucky, 483 U.S. 402 (June 24, 1987) (6-3 decision)

Use of death-qualified jury for joint trial in which death penalty was sought only against codefendant did not violate defendant's Sixth Amendment right to impartial jury, and State's use of psychiatric report solely to rebut defendant's "mental status" defense did not violate defendant's Fifth or Sixth Amendment rights.

Olden v. Kentucky, 488 U.S. 227 (December 12, 1988) (8-1 per curiam decision)

Refusal to permit black defendant in kidnapping, rape and sodomy trial to cross-examine white complainant regarding her cohabitation with black boyfriend violated the Sixth Amendment right to confrontation of witnesses as the evidence was relevant to defendant's claim that he and complainant engaged in consensual sexual acts and that complainant, out of fear of jeopardizing her relationship with boyfriend, lied when she told boyfriend she had been raped, and evidence could not be excluded on basis of mere speculation as to effect of jurors' racial biases.

Stanford v. Kentucky, 492 U.S. 361 (June 26, 1989) (5-4 decision)
The Eighth Amendment precludes the death penalty for individuals who commit crimes at 16 or 17 years of age.

Baze v. Rees, 553 U.S. 35 (April 16, 2008) (Plurality opinion)
Kentucky's three-drug protocol was not shown to be cruel and unusual in violation of the Eighth Amendment. "To constitute cruel and unusual punishment, an execution method must present a 'substantial' or 'objectively intolerable' risk of serious harm. A State's refusal to adopt proffered alternative procedures may violate the Eighth Amendment only where the alternative procedure is feasible, readily implemented, and in fact significantly reduces a substantial risk of severe pain."

Owens v. Kentucky, 556 U.S. 1218 (May 4, 2009)
Petition for writ of certiorari granted. Judgment vacated, and case remanded to the Supreme Court of Kentucky for further consideration in light of *Arizona v. Gant,* 556 U.S. 332 (2009).

Padilla v. Kentucky, 559 U.S. 356 (March 31, 2010) (7-2 decision)
The Sixth Amendment right to effective assistance of requires counsel to "inform her client whether his plea carries a risk of deportation."

***Kentucky v. King*,** 563 U.S. 452 (May 16, 2011) (8-1 decision)
Warrantless entry to prevent the destruction of evidence is allowed where police do not create the exigency through actual or threatened Fourth Amendment violation. On remand to the Kentucky Supreme Court, the Court determined that the prosecution did not show that an exigency based on destruction of evidence existed when police officers conducted a warrantless entry of an apartment. *King v. Commonwealth*, --- S.W.3d ----, 2012 WL 1450081, (Ky. April 26, 2012) (not final).

Parker v. Matthews, 567 U.S.__, 132 S.Ct. 2148 (June 11, 2012) (unanimous per curiam)
In assessing reasonableness of Kentucky Supreme Court's decision, Sixth Circuit erred by consulting its own precedents, rather than those of Supreme Court, in determining what was "clearly established Federal law" within meaning of Antiterrorism and Effective Death Penalty Act (AEDPA).

White v. Woodall, 134 S. Ct. 1697, 1701 (2014)(6-3 opinion)
Kentucky Supreme Court decision that defendant was not entitled to a no adverse inference instruction was not a clearly unreasonable application of Supreme Court precedents, such that he was entitled to Federal habeas corpus relief under the Antiterrorism and Effective Death Penalty Act (AEDPA). The Court declined to express an opinion as to whether a no adverse inference instruction is required at the penalty phase, since the case was before them under the deferential standards of the AEDPA.